

REJECTION UNDER 35 U.S.C. §103(a):

Claims 1-3, 5-10, 12-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,522,509 to Shimamura et al. in view of U.S. Patent 6,101,375 to Tuttle et al.

Previous Arguments

As previously argued, independent claim 1 recites "each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means." This feature is supported, for example, from page 11, line 25 to page 12, line 4, page 14, lines 5-8, and Fig. 5 of the present application. Thus, the claimed waiting period occurs after communication with the reading means.

Examiner's Response

At page 3 (second full paragraph) of the Office Action, the Examiner argues that col. 2, lines 36+ of Tuttle et al. disclose this feature. However, this reference discloses a waiting period which occurs before receiving a signal. Specifically, the waiting period (step 4) of Tuttle et al. is caused by the interrogator 300 waiting to receive a signal from the RFID tag 200. Tuttle, col. 2, ln. 36-39. The interrogator 300 is waiting to receive an external signal before responding. Thus, the waiting period occurs before receiving the external signal. In contrast, the claimed waiting period occurs after communicating with the receiving means.

Thus, the timing of the waiting period in Tuttle et al. is completely opposite to that of claim 1.

Furthermore, it is noted that due to incompatibility of the components of these references, additional features not shown in the references would be needed to achieve the Examiner's combination. Shimamura et al. describes resonant tags, which comprise inductors and capacitors only. In contrast, the system of Tuttle et al. includes a power level control unit 31 to set the transmitter of the interrogator to a minimum level. Thus, the resonant tags of Shimamura et al. are not interchangeable with the RFID tags of Tuttle et al. Therefore, it would not have been obvious to one of ordinary skill in the art to combine the teachings of these references.

Accordingly, withdrawal of the rejection of claim 1 is requested.

Independent claim 2 recites "the re-writable data carriers including a communication

control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from the writing means after communicating with the writing means." Accordingly, independent claim 2, and claim 3 depending therefrom, are patentable over the Examiner's cited references.

Independent claim 5 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means and calculating means for calculating the charge using the read data." Accordingly, independent claim 5, and claims 6-9 depending therefrom, are patentable over the Examiner's cited references.

Independent claim 10 recites "means for holding the dish or drink and a re-writable data carrier means for recording data to be used to calculate the charge, the re-writable data carrier means being attached to the container of the dish or the drink and including a communication control logic to cause the re-writable data carrier means to enter a state of waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means." Accordingly, independent claim 10 is patentable over the Examiner's cited references.

Independent claim 12 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means." Accordingly, independent claim 12, and claim 13 depending therefrom, are patentable over the Examiner's cited references.

Independent claim 14 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from a reading means after communicating with the reading means." Accordingly, independent claim 14 is patentable over the Examiner's cited references.

Independent claim 15 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a period of waiting a predetermined period to answer an inquiry from a reading means after communicating with the reading means." Accordingly, independent claim 15 is patentable over the Examiner's cited references.

Independent claim 16 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period after to answer an inquiry from a reading means after communicating with a reading means." Accordingly, independent claim 16 is patentable over the Examiner's cited references.

Independent claim 17 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of waiting a predetermined period to answer an inquiry from the reading unit after communicating with the reading unit." Accordingly, independent claim 17, and claims 18-19 depending therefrom, are patentable over the Examiner's cited references.

Independent claim 20 recites " the re-writable data carrier including a communication control logic which causes the re-writable data carrier to enter a state of waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means." Accordingly, independent claim 20, and claims 21-22 depending therefrom, are patentable over the Examiner's cited references.

Independent claim 24 recites " the communication control logic causing the re-writable data carrier to enter a state of waiting a predetermined period to answer an inquiry from reading means after communicating with the reading means." Accordingly, independent claim 24, and claim 25 depending therefrom, are patentable over the Examiner's cited references.

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shimamura et al. and Tuttle et al., and further in view of U.S. Patent 3,836,755 to Ehrat.

Claim 4 depends from claim 1 and is therefore distinguishable from Shimamura et al. and Tuttle et al. for at least the above reasons. Ehrat et al. does not overcome the deficiencies in Shimamura et al. and Tuttle et al. and is not relied upon by the Examiner as such. Instead, the Examiner relies upon this reference as disclosing a self service shop including a measuring means. Accordingly, withdrawal of the rejection of claim 4 is requested.

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,478,989 to Shepley, in view of Tuttle et al.

Independent claim 11 recites " each of the re-writable data carriers including a communication control logic to cause each of the re-writable data carriers to enter a state of

waiting a predetermined period to answer an inquiry from the reading means after communicating with the reading means.” It is respectfully submitted that Shepley does not disclose this feature, and it is noted that the Examiner has not specified portions of this reference which disclose this feature. Accordingly, claim 11 is patentable over the Examiner’s cited references for at least the above reasons.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: _____

By: _____
Michael J. Badagliacca
Registration No. 39,099

700 Eleventh Street, NW, Suite 500
Washington, D.C. 20001
(202) 434-1500